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FILED
OCT 4 1930

No. 111

In the Supreme Court of the United States

OCTOBER TERM, 1930

GO-BART IMPORTING COMPANY, INC., PHILIP D. GOWEN, AND WILLIAM BARTELS, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION TO ADVANCE

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Now comes the Solicitor General and moves that the Court advance the above-entitled cause for hearing to an early day convenient to the Court.

The question involved is whether the petitioners are entitled to the return of documents seized by Federal prohibition officers on June 6, 1929, in a search of premises upon which they had immediately prior thereto placed the petitioners Gowen and Bartels under arrest.

At the time of making such arrests the officers had in their possession defective warrants for the arrest of the said petitioners. They were also in possession of information which the Government

contends gave them probable cause to believe that Gowen and Bartels were engaged in a conspiracy to violate the National Prohibition Act. The evidence is conflicting as to whether the arrest warrants were served, but both courts below declined to order a return of the seized documents or a suppression of their use as evidence, holding that, regardless of the warrants, the officers were authorized to make the arrests by reason of the information in their possession respecting the commission of a felony by the petitioners, and that as an incident to such arrests, they were justified in making the search and seizure complained of. A writ of certiorari was granted by this Court on June 2, 1930.

As the use of the seized papers as evidence is regarded by the Government as essential to its case against the petitioners, the institution of criminal proceedings has been withheld pending a final adjudication as to the validity of the search and seizure. In order to prevent undue delay in the administration of the criminal law involved, it is submitted that the above entitled case should be assigned for an early hearing.

Opposing counsel have been notified of this motion.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

OCTOBER, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930